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March 8, 2017

Ms. Nicoletta DiForte  
Deputy Director for Enforcement  
Emergency and Remedial Response Division  
United States Environmental Protection Agency  
290 Broadway  
New York, New York 10007

Re: Diamond Alkali Superfund Site, Lower 8.3 Miles of Lower Passaic River  
Notice of Potential Liability Under 42 U.S.C. Section 9607(a)

Dear Ms. DiForte:

On March 31, 2016, the Environmental Protection Agency ("the Agency") issued a Section 107(a) Notice of Potential Liability to over 100 entities, including my client, Darling International Inc. (now known as Darling Ingredients Inc.) The Notice Letter alleges that each entity had released hazardous substances, and thus has potential liability under CERCLA for contamination in the Lower 8.3 Miles of the Lower Passaic River.

The Agency has previously alleged that Darling was a Potentially Responsible Party ("PRP") for contamination in the Lower Passaic River by way of an historical chain of title link and wastewater/stormwater nexus to the Lower Passaic River with two rendering facilities once owned and operated in Newark and Kearny, New Jersey, by an entity known as Standard Tallow Corporation ("STC"). Darling acquired the stock of STC in 1996 but STC was never merged into Darling. Darling never operated either of the STC facilities.

STC ceased operating at the Newark property in 1986 and moved its operations to Kearny. STC ceased operations at the Kearny location in 1996. Darling never assumed the liabilities of STC arising from its operation of the Newark and Kearny facilities. STC was dissolved in January, 2000. Darling does not recognize itself as the successor to any potential CERCLA liabilities associated with STC's operation of its Newark and Kearny facilities.

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Nevertheless, in an effort to thoroughly vet EPA's alleged claims, Darling engaged Pastor, Behling & Wheeler ("PB&W"), to conduct a comprehensive review of the available documentation concerning the operations of the two STC facilities and the claims asserted by the Agency. As represented by PBW in their enclosed report, both the STC rendering facilities processed only organic raw materials and no chemicals were used in the rendering process. The only plausible constituents of concern that may have been present in the wastewater/storm water discharged from the STC facilities included biodegradable BOD, COD, and animal/vegetable derived fats.

In addition, the report concludes that neither STC facility was the source of any of the EPA-identified Contaminants of Concern in connection with the Lower Passaic River.

Therefore, Darling respectfully submits that the evidence provided in the PBW report demonstrates that the rendering processes at the STC facilities did not result in any activity that would give rise to liability for any costs of response or other damages under CERCLA. STC did not arrange for the disposal of any hazardous substances to the sediments of the Lower Passaic River requiring response. As a result, even if Darling were a successor to STC, Darling does not have any liability under CERCLA for response costs or other damages associated with the Lower Passaic River.

Based upon the foregoing, Darling requests that the Notice of Potential Liability be withdrawn and that the Agency refrain from taking any further action with respect to Darling.

Please do not hesitate to contact me should you have any questions concerning this matter. On behalf of Darling, I look forward to your favorable reply.

Very truly yours,

  
Steven T. Singer, Esq.

Cc: Sarah Flanagan, Esq.  
All Notice Recipients